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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In re Applications of

SCRIPPS HOWARD BROADCASTING
COMPANY

For Renewal of License of
Station WMAR-TV
Baltimore, Maryland

and

FOUR JACKS BROADCASTING, INC.

For a Construction Permit
For a New Television
Facility on Channel 2
at Baltimore, Maryland

TO: The Honorable Richard L. Sippel
Administrative Law Judge

MM Docket No. 93-94

FCC File No. BRCT-910603KX

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FEB 28 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

FCC File No. BPCT-910903KE

MOTION FOR SUMMARY DECISION

FOUR JACKS BROADCASTING, INC.

Martin R. Leader
Kathryn R. Schmeltzer
Gregory L. Masters

Its Attorneys

FISHER, WAYLAND, COOPER
AND LEADER
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1157
(202) 659-3494

Dated: February 28, 1994

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SUMMARY

Four Jacks demonstrates herein that summary decision must be granted in its favor with respect to the pending misrepresentation/lack of candor issues against Four Jacks. There is no genuine issue of material fact. The divestiture and integration proposals of Four Jacks' principals have been consistent throughout this proceeding, and there is no conflict between those representations and the filings made by Sinclair Broadcast Group, Inc. in December 1993 with the Securities and Exchange Commission.

As shown in this Motion, the pleadings filed by Scripps Howard Broadcasting Company which led to the addition of the issues omitted key facts and misstated other facts. Those deficiencies are fully discussed in this motion and the attached Declarations of Four Jacks' integrated principals.

The issues presented here are not complex and, unlike the issues added against Scripps Howard, do not involve the nondisclosure of critical documents. Rather, the issues against Four Jacks involve the consistent representations of its principals concerning their divestiture proposals and integration proposals. The nature of an applicant's divestiture and integration proposals is always considered under the rubric of the standard comparative issue. Here, Scripps Howard deposed all of Four Jacks' integrated principals and cross-examined them at hearing. The December 6, 1993 SEC filings, on which Scripps Howard based its motion, are fully consistent with all prior representations and, but for Scripps Howard's misstatements of

fact, the issues would never have been added. No intent to deceive the Commission has ever been demonstrated and no such intent exists. Accordingly, summary decision should be granted.

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TO: The Honorable Richard L. Sippel
Administrative Law Judge**MOTION FOR SUMMARY DECISION**

Four Jacks Broadcasting, Inc. ("Four Jacks"), by its attorneys and pursuant to Section 1.251 of the Commission's rules, hereby moves for summary decision on the misrepresentation/lack of candor issue added by the Presiding Judge by Memorandum Opinion and Order, FCC 94M-51, released February 1, 1994 ("MO&O").

I. INTRODUCTION

1. Summary decision is particularly appropriate here. The issues against Four Jacks were added on the basis of major factual errors. Those errors were engendered by omissions and false and misleading statements advanced in Scripps Howard's Motion to Enlarge Issues and its Consolidated Reply to the

Oppositions filed by Four Jacks and the Mass Media Bureau. Unfortunately, the false and misleading statements contained in the Scripps Howard pleadings were incorporated in the MO&O. Thus, the MO&O contains significant misstatements of fact as the premise for addition of the issue. Moreover, Commission case precedent is clear that the circumstances presented here do not constitute misrepresentation or lack of candor. Given the fact that misrepresentation/lack of candor is a serious charge, it is incumbent upon the Judge to carefully review his MO&O and this motion.

II. THE ALLEGATIONS

A. SCRIPPS HOWARD'S MOTION TO ENLARGE ISSUES

2. In its Motion to Enlarge Issues filed December 9, 1993, Scripps Howard alleged that there were "irreconcilable inconsistencies" between the integration promises of the Four Jacks principals and statements made to the Securities and Exchange Commission ("SEC") in an amended Registration Statement filed December 2, 1993 and a revised Prospectus filed December 6, 1993 by Sinclair Broadcast Group, Inc. ("Sinclair"), a company in which Four Jacks' principals are officers, directors and shareholders. Specifically, Scripps Howard argued that "[t]hese SEC filings all confirm that the Four Jacks integrated principals are employees of Sinclair" (Emphasis added). Scripps Howard further contended that the representations in the SEC statements conflict with the representation in this proceeding that the proposed Four Jacks integrated principals will "resign [their] then-current employment" if Four Jacks is awarded the Channel 2

facility. The essence of Scripps Howard's argument in its Motion was that the three integrated Four Jacks principals' current full-time "employment" is as "executive officers" of Sinclair, that they promised to resign their "then-current employment" and, therefore, when the SEC filings said they had not committed to resign their official positions with, or ownership interests in, Sinclair, a conflict was presented. Scripps Howard further distorted the facts in its Consolidated Reply when it stated:

Four Jacks remarkably and incorrectly asserts that the Four Jacks principals have repeatedly made it clear throughout this proceeding that they intend to retain their current duties and executive positions at Sinclair. . . This claim lacks any support whatsoever. Nowhere in the record was such a representation made. (Scripps Howard Reply, p. 5).

3. It is evident that Scripps Howard's convoluted argument rests on several points: (a) the specific divestiture and integration proposals made by Four Jacks; (b) the use of the term "employment;" and (c) the representations made in the SEC statements. As demonstrated below, Four Jacks' divestiture and integration proposals have been consistent throughout this proceeding. Scripps Howard has omitted and distorted key facts in describing Four Jacks' proposals and in using the terms "employee" and "employment." It is also clear that the SEC statements are totally consistent with the representations of Four Jacks' principals in this proceeding.

III. THE FACTS

A. FOUR JACKS' DIVESTITURE COMMITMENT

4. Significantly, Four Jacks has never hidden the fact that its principals are officers, directors and shareholders of Sinclair or that Sinclair, through subsidiaries, owns Chesapeake Television Licensee, Inc., the licensee of WBFF(TV), Baltimore, Maryland; WTTE, Channel 28 Licensee, Inc., the licensee of WTTE(TV), Columbus, Ohio; and WPGH Licensee, Inc., the licensee of WPGH-TV, Pittsburgh, Pennsylvania. As reflected in the application, in the Integration and Diversification Statement filed on May 7, 1993, and in the Four Jacks direct case exhibits, the only interest that Four Jacks' principals propose to divest in the event their Channel 2 application is granted is WBFF(TV), Baltimore, Maryland. Thus, Four Jacks' principals never proposed to divest their positions as officers, directors and shareholders of Sinclair.

5. Four Jacks' divestiture proposal was contained in its original application. The proposal was the same as that set forth in Four Jacks' Integration and Diversification Statement filed May 7, 1993. Specifically, Four Jacks stated:

Should the Four Jacks application for Channel 2 at Baltimore, Maryland be granted, the principals of Four Jacks have timely proposed to divest, in a manner in which will be in compliance with Section 73.3555 of the Rules and Regulations, all of their interests in and sever all connections with WBFF(TV), Channel 45, Baltimore, Maryland.

The Commission reviewed this language before issuing its Hearing Designation Order and had no difficulty in understanding Four

Jacks' pledge. See Hearing Designation Order, DA 93-340, released April 1, 1993, at para. 3.

6. Moreover, as noted above, Four Jacks' divestiture pledge was repeated in its Integration and Diversification Statement and in its direct case exhibits, and Scripps Howard had ample opportunity during depositions and during the hearing to question Four Jacks' principals on this aspect. Until the filing of its Motion to Enlarge, Scripps Howard never displayed any confusion as to the nature of Four Jacks' divestiture pledge.

7. Indeed, Scripps Howard's argument is illogical. If Four Jacks' principals intended to relinquish their positions as officers and directors of Sinclair, they would have so stated in the Integration and Diversification Statement because that would have enhanced their comparative posture. And the divestiture statement would have referenced not only WBFF(TV) but Sinclair's other two television stations as well.

8. Moreover, Scripps Howard clearly understood that Four Jacks' principals did not intend to leave their positions as officers, directors and owners of Sinclair. There was extended cross-examination at the hearing on the nature and extent of their duties for Sinclair. Moreover, the Judge was not confused either. He stated during the hearing:

JUDGE SIPPEL: No, I'm saying as far as the -
- well, as far as your pledge, the pledge
doesn't go beyond -- there's a pledge in the
testimony of the undertaking, whatever --
it's a very specific one and it talks in
terms only of Channel 45.

MR. LEADER: That's correct.

JUDGE SIPPEL: It doesn't say, "And other

properties that may also be violative of the diversification policy," or anything like that. It sounds -- it's smack up against Channel 45 and that's it as the evidence is presented to me.

(Tr. 1179).

9. Thus, it is disingenuous at best and deceptively misleading at worst for Scripps Howard to argue after depositions and full inquiry during the hearing that Four Jacks did not make it clear that its principals would retain their executive positions at Sinclair. Scripps Howard has cited no precedent for this extraordinary notion. Indeed, Scripps Howard apparently misunderstands the whole nature of a divestiture representation. Such a representation speaks to what interests an applicant's principals will divest -- not what they will retain.

10. In any case, the intention of Four Jacks' principals to retain their positions as officers, directors, and owners of Sinclair is evidenced by their statements in their direct case exhibits. Each principal represented that "notwithstanding SBG's [Sinclair's] other media interests, I am able and committed to carrying out my pledge to manage, on a full-time basis, a VHF television station in Baltimore, Maryland." See also the Declarations attached hereto. The Judge's MO&O gives the following rationale for addition of the issues:

But the inference can reasonably be made that the qualifying phrase 'other media interests' would be limited to ownership of controlling stock positions in Sinclair which could readily accommodate an integration pledge by a trust arrangement or by some equally effective remedy that would functionally equate with 'resigning' from positions and responsibilities of employment with Sinclair.

(MO&O at para. 9)

Four Jacks has no idea how or from where this wholly speculative inference was generated. There is absolutely no support for such an inference in the record, and the attached Declarations make it clear that Four Jacks' principals never even discussed such an arrangement.

11. Accordingly, based on the facts set forth above, there has been no misrepresentation or lack of candor in connection with Four Jacks' divestiture proposal and Scripps Howard's convoluted and misguided arguments to the contrary must be rejected.

B. FOUR JACKS' INTEGRATION COMMITMENT

12. Four Jacks' principals also have not deviated from their longstanding integration commitments. David D. Smith, Robert E. Smith and Frederick G. Smith have each pledged to work forty or more hours per week at the proposed Channel 2 facility in management-level positions (Four Jacks Exs. 2, 3 and 4). Each of them further stated:

In the event of a grant of Four Jacks' application, to fulfill my integration commitment, I will resign from my then-current employment and will limit or terminate any other activities that might interfere with my integration commitment.

I am presently an officer, director and shareholder of Sinclair Broadcast Group, Inc. ("SBG"), which through various subsidiaries owns the media interests set forth in Four Jacks Exhibit 1. As set forth herein, I have proposed to divest all of my interests in and sever all connections with WBFF(TV), Baltimore, Maryland, should Four Jacks' application for Channel 2 at Baltimore be

granted. Each of the other stations owned (or to be acquired) by SBG has a professional General Manager who is fully responsible for each station's day-to-day operations. Moreover, SBG has a full-time Comptroller who handles SBG's financial and business operations on a daily basis. Thus, notwithstanding SBG's other media interests, I am able and committed to carrying out my pledge to manage, on a full-time basis, a VHF television station in Baltimore, Maryland, the community where I was born and have lived virtually all my life. (Four Jacks Exs. 2, 3 and 4).

Scripps Howard extensively cross-examined Four Jacks' principals on these statements at the hearing.

13. According to Scripps Howard's Motion and Reply, the testimony of Four Jacks' principals conflicts with the SEC filings. Based on Scripps Howard's pleadings, the MO&O states at para. 11 and n.3:

With the juxtaposition of the consequences of full-time integration set against the assurance to potential Sinclair investors that the Smiths would remain with Sinclair on a full-time basis, even if Four Jacks wins Channel 2, there is a substantial question of credibility raised. (Emphasis added).

14. This statement is completely erroneous! None of the filings with the SEC "assure potential Sinclair investors" that the Smiths will remain with Sinclair on a full-time basis if Four Jacks wins Channel 2. In fact, the investors are warned that there is a risk of loss of services of its present officers which may have a material adverse effect. (See Scripps Howard Ex. 33, p. 19 and Scripps Howard Ex. 34, p. 19.) Under the category "Risk Factors" and under a heading reflecting "Potential Commitment by Executive Officers to Non-Company Operations" the

following is stated:

The Company believes that its success will continue to be dependent upon its ability to attract and retain skilled managers and other personnel, including its present officers and general managers. The loss of services of any of the present officers, especially its President and Chief Executive Officer, David D. Smith, may have a material adverse effect on the operations of the Company. None of the Company's officers has an employment agreement with the Company. In addition, each of David D. Smith, Robert E. Smith and Frederick G. Smith, executive officers of the Company, has made certain commitments in the application filed with the FCC by Four Jacks, including the commitment to work on a full-time basis (40 or more hours per week) in the operations of Channel 2 in Baltimore in the event that Four Jacks is awarded such channel by the FCC. In the FCC application, David D. Smith, Robert E. Smith and Frederick G. Smith further stated that each of them would resign from their then-current employment and limit or terminate any other activities that might interfere with their commitments to Four Jacks. The Company does not believe that such commitment of resignation requires them to resign as officers or directors of the Company or to dispose of their ownership interests in the Company. Further, the Company has been informed by its FCC regulatory counsel and each of these officers that in neither the application nor the FCC proceeding with respect to Four Jacks has any of these officers committed to resign his official positions with, or dispose of his ownership interests in, the Company in the event that Four Jacks is awarded such channel by the FCC. Moreover, the Company believes that each of David D. Smith, Robert E. Smith and Frederick G. Smith will be able to perform all of his current duties with the Company while fulfilling this commitment to work for Channel 2. (Scripps Howard Ex. 33, p. 19; Scripps Howard Ex. 34, p. 19; Emphasis added).

Under any reasonable reading, this language does not in any way "assure" potential investors that the Smiths will remain with Sinclair "on a full-time basis." Quite the contrary, this

language puts investors on clear notice of the potential loss of the Smiths' services for Sinclair. It also states that David, Robert and Frederick Smith will be able to perform their duties as owners and executives of Sinclair while carrying out their Four Jacks integration pledges -- a position that they have maintained throughout the course of this proceeding.

Furthermore, the SEC filings recite the commitment of Four Jacks principals to divest WBFF(TV) if awarded the Channel 2 permit (see e.g., Scripps Howard Ex. 34, p. 17).

15. The SEC filings prior to December 6, 1993 are also fully consistent with the proposals of Four Jacks' principals. Those filings make it clear that Four Jacks has filed an application for Channel 2; that WBFF will be divested if Four Jacks' application is granted; that the members of the Smith family are free to acquire interests in enterprises that are competitive with Sinclair; and that Sinclair does not have employment contracts or non-competition agreements with any members of the Smith family. (See Scripps Howard Ex. 31, pp. 15-16).

16. The statements in the SEC filings are clearly consistent with the representations made in this proceeding. Scripps Howard has concocted a ridiculous argument to the effect that Four Jacks' principals are "employees" of Sinclair. In fact, Four Jacks' principals are officers, directors and owners of Sinclair. In this connection, while Scripps Howard's pleadings referenced sections of the amended S-1 registration statement and prospectus that Sinclair filed with the SEC, Scripps Howard omitted from its pleadings the critical sentence

that states:

None of the Company's [Sinclair's] officers
has an employment agreement with the Company.

(Compare Scripps Howard Motion to Enlarge, pp. 5 and 6 with
Scripps Howard Ex. 33, p. 19 and Scripps Howard Ex. 34, p. 19;
see also Scripps Howard Ex. 31, p. 57). In view of Scripps
Howard's prolonged arguments on this aspect, the omission of this
language can hardly be considered accidental.

17. Furthermore, examination of the testimony fully
reflects that it was Scripps Howard's counsel, Leonard
Greenebaum, and not Four Jacks, who used the term "employment."
For instance, Frederick Smith was asked:

Q. And what involvement have you had with the
stations that are owned and operated by
Sinclair?

A. As vice president, director and assistant
treasurer.

Q. And in connection with your employment
at Sinclair, have you been involved in
the hiring and firing for a station
personally?

A. Yes.

(Tr. 1329-30).

Clearly, Mr. Greenebaum stuck the word "employment" in Frederick
Smith's mouth -- Mr. Smith's own words do not contain the
word.^{1/}

18. Robert Smith was asked:

^{1/} Scripps Howard's motion refers to later testimony at Tr.
1371 where again it was Mr. Greenebaum who characterized
Frederick Smith's official position as "employment."

Q. What is your present employment?

A. My present employment? I'm the vice-president and treasurer of the Sinclair Broadcast Group, Inc.

* * *

Q. What are your duties in connection with Sinclair Broadcast?

A. My duties are to manage with my brothers the Sinclair Broadcast Group which includes Fox affiliate stations in Pittsburgh, Baltimore, and Columbus among these other entities.

Q. And as part of the group that oversees the management of these three stations, what are your specific duties on a day-to-day basis as vice-president and treasurer of Sinclair?

A. Specifically on a day-to-day, I couldn't tell you what I'm going to do tomorrow. I don't have a formal agenda on my daily routine. Everyday when we go to work, we'll discuss whatever needs to be discussed.

(Tr. 1239-40).

Mr. Robert Smith did not characterize his position as employment. Indeed, he questioned counsel's characterization when he responded "My present employment?" There is no evidence that David Smith characterized himself as an "employee." David Smith was asked:

Q. . . . How about Sinclair Broadcasting Group? What are your duties as president, chief executive officer, and chairman of the board?

A. My responsibilities extend to growth of the business, financing as need be, things of that nature.

(Tr. 1141).

Thus, Scripps Howard's claim that it was Frederick Smith and

Robert Smith who characterized their official positions with Sinclair as "employment" is demonstrably misleading. The principals of Four Jacks cannot be characterized as "employees" of Sinclair. They are the owners of that company and they set their own hours. They are "executives," "managers," "bosses."

19. Moreover, Four Jacks' principals have explained the meaning of the term "then-current employment." See the Declarations attached hereto. There is no evidence of misrepresentation or lack of candor or any contradictory evidence in the record, and there has never been any evidence of an intent to deceive.^{2/}

20. Scripps Howard may be piqued that its cross-examination was not very effective. But this failure on Scripps Howard's part is no reason for a misrepresentation/lack of candor issue against Four Jacks. Scripps Howard had its day in court. It never adduced any evidence contradicting Four Jacks' integration proposals and, as shown herein, those proposals are fully consistent with the SEC filings.

IV. COMMISSION CASE PRECEDENT SUPPORTS A GRANT OF SUMMARY DECISION

21. The primary purpose of the summary decision rule is to avoid useless hearings. The burden is on the moving party to show by affidavit or other materials that there is no genuine

^{2/} The MO&Q infers that if the Smiths are not "employed" at Sinclair, "there would be even less employment of them at WBFF-TV (n. 2). Again, this is a speculative inference that is not supported by the record. The Smiths are based at WBFF. There was testimony as to some of the activities the Smiths are presently involved in at WBFF (Tr. 1356-69).

issue as to any material facts and that such party is otherwise entitled to summary decision. See Section 1.251 of the Commission's rules and Telecorpus, Inc., 30 R.R.2d 1641 (ALJ 1974). Four Jacks has met that test.

22. There is no genuine issue of material fact as to Four Jacks' divestiture proposal. That proposal was examined by the Commission (in the face of a petition to deny filed by Scripps Howard) and accepted in the Hearing Designation Order. Under Atlantic Broadcasting Company, 5 F.C.C.2d 717, 720-21 (1966), where there has been thorough consideration of a question in the designation order, subordinate officials are expected to follow the Commission's judgment. Moreover, Scripps Howard has cited no precedent whatsoever to support its convoluted contention that a misrepresentation or lack of candor exists where an applicant has made a divestiture commitment and set forth all its other media interests. Four Jacks candidly listed all its principals' interests and complied with all FCC rules and policies.

23. Likewise, there is no material fact in dispute as to the integration proposals of Four Jacks' principals. Their proposals have been clearly stated and are consistent. There is no conflict between the SEC filings and Four Jacks' representations. Scripps Howard's argument that Four Jacks' principals are "employees" of Sinclair is based on a total distortion of the record evidence and is refuted by each principal. Moreover, case precedent holds that inconsistencies in testimony caused by the framing of the questions to the witness are not a basis for an issue. Janice Fay Surber, 5 FCC Rcd. 6155, 6160 ¶29 (Rev.Bd. 1990).

24. The cases are clear that applicants have the right to demonstrate that their principals can hold other positions while fulfilling their integration proposals. Significantly, the Commission does not even award integration credit where a principal is an officer or director of an entity but not involved in a specific day-to-day managerial role. See Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 395 (1965). Thus, the fact that Four Jacks' principals will remain officers and directors of Sinclair would not be a conflicting integration proposal in any event. And even where applicants have conflicting integration proposals, misrepresentation/lack of candor issues are the exception rather than the rule. See John Hutton Corp., 20 R.R.2d 864 (Rev. Bd. 1970) (a misrepresentation issue was not warranted where an applicant represented that he would be General Manager of two stations, 1,000 miles apart -- the applicant's ability to act in both capacities could be explored under the comparative issue). In Kevin Potter, 70 R.R.2d 496 (Rev. Bd. 1991), the Review Board held that the integration proposal of Mr. Potter for a new FM station in Gainesville, Texas was not undermined by his intention to retain ownership of an AM-FM combination in Monmouth, Illinois, 550 miles distant, which he was then managing. Mr. Potter intended to continue to oversee the Monmouth stations. On appeal, the Commission found Mr. Potter's integration proposal credible, notwithstanding his failure to name or provide information about the employee he would appoint to manage the two Illinois stations which he owned and was then managing. Kevin Potter, 71 R.R.2d 268 (1992). In Eugene Walton, 70 R.R.2d 1595 (1992), recon.

denied FCC 92-433, released September 17, 1992, the Commission held that the Review Board erred in refusing to award any integration credit to an FM applicant for the proposed participation in station management of its two principals, a husband and wife, because they had a commitment to another proposed station.

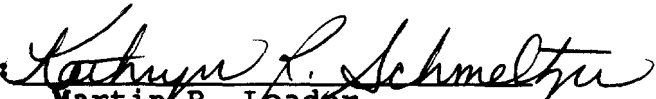
25. It is also well settled that a finding of misrepresentation must be supported by substantial evidence of an "intent to deceive." No such intent is present here nor has it even been alleged by Scripps Howard.

26. Since the evidence as a whole negates the existence of any material fact requiring litigation on the issue of misrepresentation/lack of candor, summary decision should be granted. See Augusta Radio Fellowship Institute, Inc. FCC 89D-22 (ALJ, released June 29, 1989).

Respectfully submitted,

FOUR JACKS BROADCASTING, INC.

By:


Martin R. Leader
Kathryn R. Schmeltzer
Gregory L. Masters

Its Attorneys

FISHER, WAYLAND, COOPER
AND LEADER
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1157
(202) 659-3494

Dated: February 28, 1994

DECLARATION OF DAVID D. SMITH

DECLARATION

I, David D. Smith, hereby state under penalty of perjury, as follows:

1. I am President, Director and 25% shareholder of Four Jacks Broadcasting, Inc. ("Four Jacks"). I am providing this Declaration in support of Four Jacks' Motion for Summary Decision.

2. I am also President, Director and 25% owner of Sinclair Broadcast Group, Inc. ("Sinclair"). Through various subsidiaries, Sinclair owns and operates three Fox affiliated independent UHF television stations, one of which is Station WBFF(TV), Baltimore, Maryland.

3. In the FCC Form 301 application and in Four Jacks' Integration and Diversification Statement, the principals of Four Jacks proposed to divest, in a manner which will be in compliance with Section 73.3555 of the Commission's Rules and Regulations, all of our interests in and sever all connections with WBFF(TV). The diversification statement did not state that we would divest our interests in Sinclair. Nor can the diversification statement be reasonably interpreted to suggest that we would divest our interests in Sinclair since Sinclair owns two other stations. Moreover, in our direct case testimony in this proceeding, my brothers Robert & Frederick and I each detailed how we would accommodate our positions at Sinclair with our commitments to participate full-time in the management of Four Jacks' proposed station. We would not have done so had we intended to resign from Sinclair.

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4. The Memorandum Opinion and Order adding the issues against Four Jacks suggests that my brothers and I are "employees" of Sinclair. We are officers, directors and owners of Sinclair. As the amended SEC Registration Statement and Prospectus make clear, none of us has an employment agreement with Sinclair. Sinclair is a holding company which receives a certain percentage of the total revenue of the companies it owns. We receive compensation based on that revenue.

5. I am currently involved with Sinclair in the capacity of an executive officer and director and have full authority to control my own hours of involvement at the company and what I do for the company. I have never stated to potential investors in Sinclair that I would remain with Sinclair on a fulltime basis. Neither the amended SEC Registration Statement nor the Prospectus makes that representation. Rather, they clearly reflect my commitment to serve as General Manager of Four Jacks' proposed facility on a full-time basis (40 or more hours) per week. Moreover, none of the versions of the S-1 or Prospectus state to investors that I or my brothers will remain with Sinclair. In fact, the opposite is the case in view of the risk factors repeatedly noted in the filings. The risk factors include representations that Sinclair's officers may have other interests in entities which compete with Sinclair's interests. All versions put investors on notice of the risk that we may not remain with Sinclair.

6. I have stated that in the event of a grant of Four Jacks' application, to fulfill my integration commitment, I will resign from my then-current employment and will limit or

- 3 -

terminate any other activities that might interfere with my integration commitment. By virtue of the nature of my relationship with Sinclair, the words "then-current employment" did not refer to my ownership or executive position in Sinclair but rather to any future employment or consulting contracts that I might have at the time that the Four Jacks application is granted and to my current full-time presence at WBFF(TV). I can easily limit and/or terminate my activities for Sinclair, while remaining an owner and officer, to accommodate my full-time integration proposal since I have the authority to do so.

7. The language in the amended S-1 and the Prospectus that is referred to in the Memorandum Opinion and Order reflects what has been the intention of Robert, Frederick and me at all times during the course of this proceeding. We believe that our filings with the FCC made that intention clear.

8. The Memorandum Opinion and Order also infers at para. 9 that there might be some type of "trust arrangement or some other equally effective remedy that would functionally equate with 'resigning' from positions and responsibilities of employment with Sinclair." I have no idea where this idea springs from because our stated intention all along has been to divest Channel 45 in a manner found acceptable by the Commission. Neither I nor my brothers have ever discussed anything of this sort.

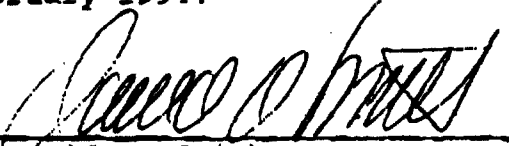
9. I am committed, and have always been committed, to my full-time integration proposal in the Four Jacks proceeding as I have demonstrated to the FCC and the SEC and I have never intended to make any misrepresentations or to lack candor in this regard.

Feb. 28. 1994 12:33PM

No. 1029 P. 19/26

- 4 -

Executed this 28th day of February 1994.



David D. Smith

Received Time

Feb. 28. 3:30PM

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